IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 23RD AUGUST 2007 / 1ST BHADRA 1929

Bail Appl..No. 4992 of 2007()

CRIME NO. 279/07 OF TOWN WEST POLICE STATION, THRISSUR

APPLICANTS/ACCUSED

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1. SHARAFUDHEEN MUSLIAR, AGED 21 YEARS
   S/O. LATE MOHAMMED MUSLIAR,
   MUSLIAR HOUSE, PATTERKKADAVU P.O.,
   MALAPPURAM DISTRICT.

2. ABDUL RASHID AZEEZ, AGED 18 YEARS,
   S/O. AZEEZ, PARANGODATHU VALAPPIL HOUSE,
   KOKKUR P.O., MALAPPURAM DISTRICT.

3. VINOD.S. PILLAI, AGED 20 YEARS,
   S/O. SOMANTHAN PILLAI, PUNAKKATTIL HOUSE,
   EAST KADUNGALLUR, U.C. COLLEGE P.O. ALWAYE,
   ERNAKULAM DISTRICT.

4. AJAY.V.A., AGED 21 YEARS,
   S/O. APPU, VELLAYAKUDATH HOUSE,
   MATTATHURKKUNNU P.O.,
   THRISSUR DISTRICT.

5. LAJ.C.A., AGED 21 YEARS,
   S/O. ABDULLA.C.M.,
   SANGETHAM, MUNDATHICODE P.O.,
   ARYAMPADAM, THRISSUR DISTRICT.

6. AMSU.V.S., AGED 21 YEARS,
   S/O. P. VAMADEVAN NAIR,
   POOR HOME, TC 3/1362 (OLD).
   TC. 18/2577 (NEW) KUNNUMPURAM LANE,
   A.17, EAST OATTIM,
   THIRUVANANTHAPURAM DISTRICT.

7. GIRISH.K.S., AGED 25 YEARS,
   KANIYAMPARAMBIL HOUSE,
   PAMBADI.P.O.,
   KOTTAYAM DISTRICT.

BY ADV. SRI.P.VIJAYA BHANU
SRI.M.REVIKRISHNAN

RESPONDENTS: COMPLAINANT/STATE

STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR. HIGH COURT OF KERALA
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 23/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 4992 of 2007

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Dated this the 23rd day of August, 2007

O R D E R

Application for anticipatory bail. The petitioners face allegations, inter alia, under Section 326 r/w. 149 I.P.C. The accused and the victims are students of Government Law College, Trichur. The injured belong to A.B.V.P, whereas the petitioners allegedly belong to the S.F.I. Swords and G.I. pipes were allegedly used by the petitioners to settle political scores with their brother students belonging to a rival faction. Injuries, simple and grievous, were allegedly caused. Only one victim by name Sarath did allegedly suffer fracture. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that a lenient view may be taken and anticipatory bail may be granted to the petitioners. The petitioners have their impending examinations and arrest and detention is likely to cause great hardship and loss to them. The learned counsel further submits that no grievous hurt has been suffered by any one because of the alleged incident in this case. The

counsel contends that the statement of the victim Sarath to the doctor and the statement of the doctor in the course of investigation recorded under Section 161 Cr.P.C. do indicate that Sarath did not suffer the injury as a result of the attack in this case. No wound certificate is also prepared by the doctor as the allegation to the doctor is that he had slipped and suffered the injuries. In these circumstances the petitioners may be granted anticipatory bail, submits the counsel.

3. The learned Prosecutor opposes the application. He submits that there are no circumstances which would justify the invocation of the extra ordinary inherent discretion under Section 438 Cr.P.C. in this case.

4. I have considered all the relevant inputs. At this early stage of investigation I shall scrupulously avoid any detailed discussion on merits about the acceptability of the allegations or credibility of the data collected. Satisfactory data are available to indicate that there was an incident at the Law College. Satisfactory indications appear to be available that the victims had suffered injuries in such incident at the Law College. The first informant along with Sarath had reached the hospital and had given information to the police that Sarath had suffered grievous injuries in the incident which had taken place. Questioning of Sarath also indicates that it

is as a result of the violence of the assailants that he suffered injuries. It is true that the indications suggest that at the first instance before the doctor the allegation of Sarath having suffered injuries in the attack was not specifically raised. But in the light of the statements in the F.I. statement and statement under Section 161 Cr.P.C. of the said Sarath, I am of the opinion that it is not necessary to attach undue significance to that incongruity regarding the alleged cause.

5. I am unable to agree that any leniency is liable to be shown. Law students, future lawmen of the country, are not expected to settle political scores by violence. Tolerating such violence would certainly send a wrong message. I am of the opinion that this is a fit case where the petitioners must resort to the ordinary and normal procedure of appearing before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course. I find no reason to invoke the extra ordinary equitable discretion under Section 438 Cr.P.C. in favour of the petitioners.

6. This application is accordingly dismissed. I may however hasten to observe that if the petitioners appear before the learned Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor

in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

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